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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 Case No. 8:23-cv-00489-FWS-PVC

12 SHARIF AZMI ELTAWIL,

13 Petitioner,
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15 v.

16 BRYAN D. PHILLIPS, ACTING
17 WARDEN,

18 Respondent.
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**ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE [11]
AND DENYING PETITION FOR
HABEAS CORPUS [1]**

I. Introduction and Relevant Procedural History

Before the Court is the Magistrate Judge’s Report and Recommendation issued on May 25, 2023 (the “Report and Recommendation”), (Dkt. 11), regarding the Petition for Habeas Corpus (the “Petition”), (Dkt. 1), filed by Petitioner Sharif Azmi Eltawil (“Petitioner”). Based on the state of the record, as applied to the applicable law, the court adopts the Report and Recommendation issued by the Magistrate Judge, including each of the findings of fact and conclusions of law therein.

On March 16, 2023, Petitioner filed the Petition. (Dkt. 1.) On May 25, 2023, the Magistrate Judge issued the Report and Recommendation. (Dkt 11.) On or about June 14, 2023, Plaintiff filed a “Motion Objecting to [the] Magistrate[’]s Report and Recommendation” (the “Objections”). (Dkt. 12).

II. Analysis

“A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b)(3) (stating “[t]he district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to,” and “[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions”). Proper objections require “specific written objections to the proposed findings and recommendations” of the magistrate judge. Fed. R. Civ. P. 72(b)(2). “A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (“The statute makes it clear that the district judge must review the magistrate judge’s findings and recommendations de novo if objection is made, but not otherwise.”). Where no objection has been made, arguments challenging a finding are deemed waived. *See* 28 U.S.C. § 636(b)(1)(C) (“Within fourteen days after being served with a copy, any party may serve and file

1 written objections to such proposed findings and recommendations as provided by
2 rules of court.”). Moreover, “[o]bjections to a R&R are not a vehicle to relitigate the
3 same arguments carefully considered and rejected by the Magistrate Judge.” *Chith v.*
4 *Haynes*, 2021 WL 4744596, at *1 (W.D. Wash. Oct. 12, 2021).

5 In the Report and Recommendation, the Magistrate Judge recommends the
6 “Court issue an Order: (1) accepting and adopting this Report and Recommendation,
7 (2) denying the Petition for Habeas Corpus, and (3) directing that Judgment be entered
8 dismissing this action without prejudice as untimely.” (Dkt. 11 at 10.) In the
9 Objections, Plaintiff makes several assertions, including that “Equitable Tolling
10 should be given affect due to the ‘extraordinary circumstances’ beyond the prisoner’s
11 control.” (Dkt. 12 at 1.)

12 In this case, after conducting a *de novo* review of the Objections, the court
13 agrees with each of the findings of fact and conclusions of law set forth in the Report
14 and Recommendation, including the recommendation that “the AEDPA limitation
15 period expired on December 5, 2007, and Petitioner’s federal habeas petition is
16 untimely.” (Dkt. 11 at 9.) Accordingly, the Objections are **OVERRULED** on their
17 merits.

18 In sum, pursuant to 28 U.S.C. § 636, the Court has reviewed the record,
19 including the Report and Recommendation, the Petition, the Objections, and the other
20 files and records of the case. After conducting a *de novo* determination of the portions
21 of the Report and Recommendation to which the Objections pertain, the Court concurs
22 with and accepts the findings and conclusions of the Magistrate Judge in the Report
23 and Recommendation.

24 **III. Conclusion**

25 Based on the state of the record, as applied to the applicable law, the Court adopts
26 the Report and Recommendation, including each of the findings of fact and conclusions
27 of law therein. Accordingly, the Court orders the following:
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3 (1) The Petition is denied.
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5 (2) Judgment is entered dismissing this action without prejudice as untimely.
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7 (3) The Clerk is directed to serve copies of this Order and the Judgment
8 herein on Petitioner at his current address of record.
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10 **IT IS SO ORDERED.**

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12 Dated: July 10, 2023



13 Hon. Fred W. Slaughter
14 UNITED STATES DISTRICT JUDGE
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